

UNITED STATES DISTRICT COURT

for the  
District of Arizona

DA  
10/2/17  
United States of America  
v.  
Jose Francisco Arias Fernandez,  
a.k.a.: Jose Arias Fernandez,  
a.k.a. Jose Francisco Arias-Fernandez,  
(A200 897 808)

*Defendant*

Case No. 17-6354MS

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of August 12, 2015, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), an offense described as follows:

Jose Francisco Arias Fernandez, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about August 28, 2010, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced (b)(1).

I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

**See Attached Statement of Probable Cause Incorporated By Reference Herein**

CEB

REVIEWED BY: Charles E. Bailey, P.S. for AUSA Kathy J. Lemke

☒ Continued on the attached sheet.

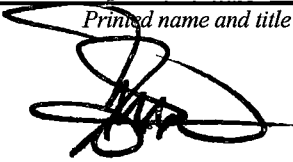
Sworn to before me and signed in my presence.

Date: October 3, 2017

City and state: Phoenix, Arizona

  
Complainant's signature

Salvador Delgado II,  
Deportation Officer  
Printed name and title

  
Judge's signature

David K. Duncan,  
United States Magistrate Judge  
Printed name and title

### **STATEMENT OF PROBABLE CAUSE**

I, Salvador Delgado II, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On August 12, 2015, Jose Francisco Arias Fernandez was booked into the Maricopa County Jail (MCJ) by the Scottsdale Police Department on local charges. While incarcerated at the MCJ, Arias Fernandez was examined by Immigration Enforcement Agent A. Broyles who determined Arias Fernandez to be a Mexican citizen, unlawfully present in the United States. On the same date, an immigration detainer was lodged with the county jail. On October 2, 2017, Arias Fernandez was released from the Arizona Department of Corrections and transported to the Florence ICE office for further investigation and processing. Arias Fernandez was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Jose Francisco Arias Fernandez to be a citizen of Mexico and a previously deported criminal alien. Arias Fernandez was removed from the United States to Mexico through Nogales, Arizona, on or about August 28, 2010, pursuant to an order of removal issued by an immigration judge. There is no record of

Arias Fernandez in any Department of Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Jose Francisco Arias Fernandez's immigration history was matched to him by electronic fingerprint comparison.

4. Criminal history checks revealed that Jose Francisco Arias Fernandez was convicted of two counts of Public Sexual Indecency, and Aggravated Taking the Identity of Another, both felony offenses, on or about August 9, 2010, in the Superior Court of Arizona, Maricopa County. Arias Fernandez was sentenced to eight (8) days' incarceration with credit for time served and lifetime probation. Arias Fernandez's criminal history was matched to him by electronic fingerprint comparison.
5. On October 2, 2017, Jose Francisco Arias Fernandez was advised of his constitutional rights. Arias Fernandez freely and willingly acknowledged his rights and agreed to provide a statement under oath. Arias Fernandez stated that his true and complete name is Jose Francisco Arias Fernandez and that he is a citizen of Mexico. Arias Fernandez stated that he illegally entered the United States at or near Agua Prieta, two and one half (2.5) years ago, without inspection by an immigration officer. Arias Fernandez further stated that he had been removed from the United States to Mexico and did not receive permission from the Secretary of the Department of Homeland Security to re-enter the United States after his removal.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about August 12, 2015, Jose Francisco Arias Fernandez, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having

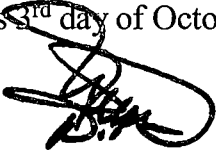
been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about August 28, 2010, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).



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Salvador Delgado II,  
Deportation Officer,  
Immigration and Customs Enforcement

Sworn to and subscribed before me  
this 3<sup>rd</sup> day of October, 2017.



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David K. Duncan,  
United States Magistrate Judge